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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

**BORIS BRYANT, DARREN MAYO,
EDWARD PIERRE, LAWRENCE GRICE,
KEVIN MCINTYRE, MAURICE
GALIMORE, JAMES BROWN, CARLOS
BEATTY, MARCUS PAREJO, LAMAR
NEWTON, JOHN LUCAS, CARLTON
SYKES,**

Plaintiffs,

v.

**FMC TECHNOLOGIES, INC.,
PROSTAFF PERSONNEL
ACQUISITION CORP.**

Defendants.

Case No.

COMPLAINT FOR DAMAGES

1. Race Discrimination
(Title VII against FMC)
2. Race Discrimination
(Title VII against Prostaff)
3. Retaliation
(Title VII against FMC)
4. Retaliation
(Title VII against Prostaff)
5. Race Discrimination in violation of
public policy (against FMC)
6. Race Discrimination in violation of
public policy (against Prostaff)
7. Retaliation in violation of public
policy (against FMC)
8. Retaliation in violation of public
policy (against Prostaff)
9. Intentional infliction of emotional
distress (against FMC)
10. Intentional infliction of emotional
distress (against Prostaff)
11. National Origin Discrimination
(against FMC and Prostaff)
12. Discrimination-Hostile work
environment (against FMC)
13. Discrimination-Hostile work
environment (against Prostaff)
14. Race Discrimination
(Texas Labor Code Section 21.051
against FMC)
15. Race Discrimination
(Texas Labor Code Section 21.052
against Prostaff)

DEMAND FOR JURY TRIAL

PARTIES AND JURISDICTION

1. Plaintiffs are eleven African-Americans and one West Indian individual.
2. At all pertinent times mentioned in this complaint, Plaintiffs were residents of the State of Texas, within the Southern District of Texas.
3. Subject matter jurisdiction in this court is invoked pursuant to Title VII of the United States Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000(e)-5(f)(30).
4. This Court has supplemental jurisdiction over Plaintiffs' state statutory and common law causes of action arising out of the same case or controversy as the civil action over which this Court has original jurisdiction. 28 U.S.C. § 1367(a).
5. The unlawful employment practices described herein were committed in the Southern District of Texas, and, on information and belief, all records relevant to the causes of action alleged in this complaint are kept in the Southern District of Texas. Therefore, venue is proper pursuant to §707(f)(3) of Title VII, 42 U.S.C. §2000e-5(f)(3).
6. Plaintiffs were at all times herein relevant were employees, de facto employees or applicants for employment with FMC Technologies, Inc. (hereinafter "FMC").
7. Defendant FMC Technologies, Inc. is a Delaware corporation, operating in the State of Texas.
8. At all times relevant herein, Plaintiffs reported directly to FMC managers and leads, received day-to-day orders from FMC personnel, received performance evaluation from FMC personnel, had their hours, vacations and schedules set by FMC, received disciplinary action from FMC personnel, were paid on an hourly basis, and reported to human resources managers of FMC.
9. Defendant PROSTAFF PERSONNEL ACQUISITION CORP. (Hereinafter "Prostaff"), is a Delaware corporation, operating in the State of Texas. Many Plaintiffs were originally placed at the FMC facility through the Prostaff agency. Plaintiffs repeatedly complained of harassment and discrimination to managers and human resources of Prostaff, but Prostaff failed to take any remedial action

1 to stop the harassment and discrimination from occurring.

2 10. At all times mentioned in the causes of action into which this paragraph is
3 incorporated by reference, each and every defendant was the agent or employee
4 of each and every other defendant. In doing the things alleged in the causes of
5 action into which this paragraph is incorporated by reference, each and every
6 defendant was acting within the course and scope of this agency or employment
7 and was acting with the consent, permission, and authorization of each
8 remaining defendant. All actions of each defendant alleged in the causes of
9 action into which this paragraph is incorporated by reference were ratified and
10 approved by the officers or managing agents of every other defendants.

11
12 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

13 11. Plaintiffs have exhausted all applicable administrative remedies.

14
15 **STATEMENT OF FACTS**

16 **Boris Bryant**

17 12. Plaintiff Boris Bryant was hired by Prostaff in or about December of 1999.

18 13. At all times relevant herein, Plaintiff worked at the FMC Technologies plant,
19 located at 1777 Gears Road, Houston, Texas.

20 14. In August of 2000, Plaintiff was hired as a full-time employee of FMC
21 Technologies as an "Assembly Technician I."

22 15. Throughout his career, Plaintiff Bryant has been subjected to numerous acts of
23 racial hostility and discrimination.

24 16. In or around January 2000, Plaintiff was transferred from the Low Bay to the
25 High Bay, where James Faucett became his supervisor.

26 17. Plaintiff heard Facuett make numerous racial slurs, including *nigger* and *monkey*.

27 18. In 2001, Plaintiff witnessed racist graffiti on the wall, including a drawing of a
28 noose with the word "nigger." Plaintiff complained to James Faucett, who

- 1 dismissed Plaintiff's complaint, telling him, "this is a shop; that kind of thing
2 happens."
- 3 19. In or around 2002, Plaintiff was working the night shift and listening to his radio.
4 Shannon, a lead, came by and told Plaintiff, "*I don't want to listen to that*
5 *f. . .ing nigger music.*" Plaintiff complained to James Faucett and human
6 resources manager, Michelle Risinger, who told Plaintiff that she would
7 investigate and get back to Plaintiff. No one from human resources ever got back
8 to Plaintiff with the results and Shannon continued to be Plaintiff's lead person.
- 9 20. Later in 2002, on Martin Luther King Day, Shannon put on a paper KKK hat and
10 stated, "f. . .k that MLK, they should have killed him." Plaintiff complained to
11 human resources managers Vicky Vargas, Debra Grey and Michelle Risinger,
12 however, nothing changed and Shannon continued to be Plaintiff's lead person.
- 13 21. Additionally, Faucett would discipline Plaintiff more severely than his non-
14 African-American coworkers for the same alleged offenses. Further, Faucett
15 issued Plaintiff numerous unwarranted negative performance appraisals, costing
16 Plaintiff raises and hampering his prospects for advancement within the
17 company.
- 18 22. In 2003 or 2004, Lead Roy Boden called Plaintiff "boy." Plaintiff explained to
19 Boden that this term was unacceptable because this was a slavery term. Boden
20 merely laughed at Plaintiff.
- 21 23. In 2004, Plaintiff applied for a lead position. However, Plaintiff was not even
22 interviewed and James Faucett gave the position to a non-African-American
23 employee with less seniority, who Plaintiff was forced to train. Plaintiff
24 complained Michelle Risinger and Vicky Vargas from human resources,
25 however, nothing happened.
- 26 24. In 2005, Plaintiff applied for another lead position. There were five applicants for
27 four open positions. Plaintiff and another African-American employee, Robert
28 Graves, applied for the position. However, three non-African-American

1 employees, with less seniority than Plaintiff and Graves, got the lead positions.
2 The fourth position was never filled. A month before the interviews, the names
3 of the three non-African-American applicants were already written in to the
4 organizational chart. Plaintiff complained to James Faucett and to Vicky Vargas
5 from human resources, however, nothing happened.

6 25. Plaintiff suffered incredible stress as a result of this discriminatory promotion
7 practices. Plaintiff suffered loss of sleep, anxiety, nervousness and loss of
8 appetite. Plaintiff's doctor put him out on stress leave for three months so he
9 could recover.

10 26. Plaintiff used to carpool with a non-African-American employee named Brad
11 Hooker. In 2005, Plaintiff was suspended for 3 days without pay for being tardy.
12 However, Brad Hooker, who arrived at the same time as Plaintiff, received no
13 disciplinary action at all. Plaintiff complained to James Faucett, who dismissed
14 Plaintiff's allegation and did nothing about it.

15 27. In 2006, Plaintiff applied for another lead position. However, this position was
16 once again given to a non-African-American employee with less experience than
17 Plaintiff. Plaintiff complained to human resources, however, nothing was done.

18 28. In September, 2006, Plaintiff received a negative Performance Development
19 Disclosure ("PDD") after an accident on the job site, even though Plaintiff was
20 not even present at the time and Plaintiff was found to be faultless. As a result of
21 this incident, Plaintiff was placed on probation for one year and he was denied a
22 raise.

23 29. In November, 2006, Plaintiff applied for a "service tech" position. Plaintiff was
24 interviewed by James Philips, a non-African-American employee who Plaintiff
25 had trained. However, Plaintiff was denied the promotion. Philips told Plaintiff
26 that James Faucett [Plaintiff's supervisor] "black balled you." Plaintiff
27 complained to human resources about being denied this promotion, however,
28 nothing was done.

1 30. In September of 2007, Plaintiff saw Lead James Bryan, looking at Ku Klux Klan
2 and other white supremacist, racist websites on the job. Plaintiff complained to
3 human resources, however, Bryan was not disciplined and nothing changed.

4 31. Plaintiff complained to Wendell Beborski in human resources about the fact that
5 people Plaintiff trained became leads and supervisors, while Plaintiff was
6 continually denied promotions. Plaintiff told Deborski about how African-
7 Americans were required to sweep, while non-African-Americans were put in
8 positions of responsibility, where they could improve their job skills. Deborski
9 agreed that there was a hostile work environment.

10 32. In September of 2007, a hangman's noose was found in the machine shop.
11 Plaintiff Bryant and each of the other Plaintiffs were incredibly shocked and
12 offended by this racist act and complained to human resources. However, the
13 harassment continued and additional nooses were found.

14 33. In October of 2007, another hangman's noose was found in the "high bay,"
15 where Plaintiff works. Plaintiff learned about the noose from coworkers and he
16 was incredibly upset that a noose would be in his workplace. Plaintiff
17 complained to Vicky Vargas and Wendell Deborski in human resources,
18 however, nothing changed.

19 34. In November of 2007, yet another hangman's noose was found in the "high bay."
20 Wendell Deborski, from human resources, told Plaintiff that they found the
21 noose there. FMC then held a sensitivity training session with all of the
22 employees put on by a team of lawyers. However, the video that was played
23 contained offensive language and racial slurs, including children using the word
24 "nigger." Plaintiff, as well as other employees, walked out of the video in protest
25 of such a demeaning and inappropriate video. Plaintiff complained to the
26 trainers about the incredible insensitivity of this video.

27 35. Upset at the racial atmosphere at the workplace, Wendel Deborski from human
28 resources quit FMC.

1 36. In December of 2007, employee Steven Henderson showed Plaintiff the swastika
2 and rebel flag tattoos on his back. Plaintiff again complained to human resources,
3 however, nothing changed.

4 37. In May of 2008, yet another noose was found. However, as with the prior nooses,
5 management attempted to minimize the severity of the incident and took no
6 remedial action.

7 **Darren Mayo**

8 38. Plaintiff Darren Mayo was hired by FMC on or about January 8, 1997 as an
9 assembly technician.

10 39. In 1999 Plaintiff was recommended for a promotion to the surface department.
11 However, Plaintiff was denied the promotion and the job went to a non-African-
12 American employee. Plaintiff complained to human resources, however, Plaintiff
13 was still denied the job and nothing ever changed.

14 40. During his tenure with FMC, Plaintiff trained several non-African-American
15 employees, who were later promoted over him.

16 41. In 2000, while Plaintiff was working as a lead subsea technician, Plaintiff, another
17 African-American employee and one non-African-American employee were
18 working offsite. When the job was done, the three employees left. However, the
19 following day, Plaintiff Mayo and the other African-American employee were
20 accused of stealing time. The non-African-American employee, who left with
21 them, was not disciplined at all. As a result of this incident, Plaintiff was no
22 longer allowed the privilege of working offsite, and denied the opportunity to
23 grow within the company. Further, management falsely told Plaintiff's
24 coworkers that he had been stealing time, leading to embarrassment and hurting
25 his chances for promotion.

26 42. Plaintiff complained about this incident to human resources, who allegedly
27 investigated, but took no action.

28 43. In 2002, Supervisor James Faucett was talking to Plaintiff about another African-

1 American employee and said, **"that's what I call a nigger right there, I just use**
2 **him to get what I need out of him."** Previously, Faucett told Plaintiff that his
3 father was in the KKK.

4 44. Plaintiff knew that other employees complained about James Faucett to human
5 resources, including the fact that Faucett had used racial slurs such as "nigger
6 lover." Faucett was never disciplined.

7 45. In 2004, a hangman's noose was found in the weld shop, however the company
8 did nothing to prevent further recurrences.

9 46. Throughout his career working with James Faucett, Faucett would write negative
10 performance appraisals of Plaintiff, costing him raises and opportunities for
11 advancement. Faucett constantly berated Plaintiff and embarrassed him in front
12 of his coworkers. Faucett would tell him, "get your stupid ass back on the floor"
13 and other demeaning comments.

14 47. In 2006, Plaintiff was given an unwarranted writeup by James Faucett for
15 allegedly failing to complete an assignment, leading to Plaintiff being denied a
16 raise. However, Plaintiff did in fact complete the assignment but the contractor,
17 SAS, took down his work to do the insulation work. Plaintiff complained to Eric
18 Heuring about this disparate treatment and about Faucett's harassing treatment,
19 and asked to be moved to a different assignment.

20 48. In May of 2007, Plaintiff was injured in a car accident. At that time, Plaintiff was
21 also scheduled to take a vacation. After confirming with human resources,
22 Plaintiff took his planned vacation. Plaintiff was accused of being a "no call no
23 show," even though his leave was approved.

24 49. At that same time, May of 2007, Plaintiff was denied a promotion to a team lead
25 position. The job instead went to Roy Bolton, a non-African-American with less
26 seniority than Plaintiff and who had committed five "no call no show"
27 violations. Instead of being terminated, Bolton was promoted.

28 50. Plaintiff complained to Wendell Deborski in human resources about being

1 denied the promotion. Plaintiff told Deborski that his managers had denied him
2 the position because of his race. After investigating for two or three weeks,
3 Deborski told Plaintiff, "I've been getting retaliated against because I have been
4 asking about this promotion and that's why I'm putting in my two weeks
5 notice." Deborski said that he was going to tell the truth about the discrimination
6 at FMC during his exit interview.

7 51. In October 2007, a noose was found in the workplace. In early November, 2007
8 yet another noose was found in the workplace. At that time, Plaintiff learned
9 about that noose, as well as a noose the previous month. Plaintiff was incredibly
10 upset and offended that a noose would be in his workplace. Plaintiff complained
11 about the hangman's noose to Michelle Risinger in human resources. Risinger
12 told Plaintiff that the incident was under investigation. In later November, 2007,
13 a third noose was found at the workplace. Lead John Zeizmer confirmed to
14 Plaintiff that a third noose had been found.

15 52. In January of 2008, Plaintiff was ordered to attend a mutual respect meeting. At
16 that time, a video was shown contained offensive language and racial slurs,
17 including children using the word "nigger." Plaintiff complained to the
18 facilitator of the meeting about how offensive the video was.

19 53. In February of 2008, Plaintiff opened his desk drawer to find a black glove with
20 four fingers stapled down exposing the middle finger. Plaintiff complained to his
21 lead, John Troxell, that this was offensive to him, however nothing was done.

22 54. On or about February 22, 2008, Plaintiff wrote an email to Michelle Risinger in
23 human resources, complaining about how offensive this was and how
24 disappointing at how slow the response was and the fact that there was no
25 "stand down" meeting to discuss it, especially in light of the noose incidents.

26 55. The following Wednesday, Plaintiff met with Susan Webb from Human
27 Resources, Jon Troxell and Brian Janak, to discuss the situation. Susan Webb
28

1 acknowledged that the company should have acted quicker to address the issue.
2 However, nothing was done to improve the hostile work environment.
3 56. On or about May 17, 2008, yet another noose was found in the High Bay.
4 Plaintiff learned about it from his coworkers and was incredibly upset about it.
5 The following Monday, May 19th, the company held a meeting to discuss the
6 noose. After the meeting, Plaintiff complained to Jon Troxell that he couldn't
7 take this any more. Plaintiff suffered loss of sleep, stress and anxiety, forcing
8 Plaintiff's doctor to take him out of the workplace on stress leave for three
9 weeks.

10 57. During his leave, Plaintiff spoke with Jon Troxell and told him that the stress was
11 caused by the noose incident. Troxell said that he was disappointed with
12 Plaintiff's work performance. Prior to Plaintiff's stress leave, Troxell had never
13 complained about Plaintiff's performance. When Plaintiff returned, Troxell
14 issued new guidelines for Plaintiff's job.

15 58. Plaintiff currently reports to John Troxell. However, Troxell constantly criticizes,
16 berates, swears at and yells at Plaintiff publicly, making his job nearly
17 impossible. However, Troxell never yells at the non-African-Americans.

18 59. Plaintiff is currently under constant stress and anxiety as a result of working for
19 Defendant. He suffers loss of sleep, eating issues, headaches and mental anguish.

20 **Edward Pierre**

21 60. Prior to working for Prostaff and FMC, Plaintiff Pierre was in the military for
22 almost twelve years.

23 61. Plaintiff Pierre began working at the FMC facility on or about April 4, 2007.

24 62. On May 22, 2007, Plaintiff suffered an injury to his thumb, which was caused by
25 his Caucasian lead, James Bryant. Plaintiff's direct supervisor, James Faucett, told
26 Plaintiff, "I bet you'll pay attention next time." A few weeks later, the company
27 fired Plaintiff's Latino coworker over the incident, even though it was James
28

1 Bryant's fault.

2 63. Throughout his tenure, Plaintiff has been trying to secure full-time employment
3 with FMC. However, while Plaintiff was told that he needed more experience,
4 Plaintiff's non-African-American coworkers with less experience and time on the
5 job were hired by FMC, while Plaintiff was not.

6 64. On October 25, 2007, Plaintiff discovered a hangman's noose in his work area.
7 Plaintiff was incredibly offended by this racist symbol. Plaintiff immediately
8 called over his coworker, Plaintiff Lamar Newton, to see it. Lamar was also
9 outraged at the sight of this noose in the workplace. Newton went to see the Low
10 Bay Team Lead, Joe McHenry, who said that he would come down to check it
11 out. In the mean time, lead James Bryant came over to Plaintiff's work area.
12 Bryant joked, "Ed, are you tying nooses around here?" Plaintiff told him no, and
13 that he was waiting for McHenry to arrive.

14 65. James Bryant left to speak with Roy Bolton, the High Bay Team Lead. Instead of
15 giving this serious situation the attention it deserved, Bolton said, "I don't have
16 time for this kind of stuff; I need these trees to get done." James Bryant then cut
17 down the noose and took it to Joe McHenry.

18 66. Wendell Deborski, from human resources, came down to interview Plaintiff.
19 Plaintiff told Deborski what happened and Deborski said that HR was going to
20 investigate. Plaintiff was later summoned to human resources, where he met
21 with Vicky Vargas and Paige Fuller from Prostaff. Vicky Vargas tried to get
22 Plaintiff to say that the rope wasn't really a noose but Plaintiff explained to
23 everyone that it was in fact a hangman's noose. Plaintiff gave them a written
24 statement about what happened. Vargas told Plaintiff that she would get back to
25 him with the results of the investigation, however, Vargas never did.

26 67. As a result of the this incident, Plaintiff suffered from severe stress, loss of sleep,
27 anxiety and fear. Plaintiff wondered every day whether he would be able to keep
28

1 his job and work in this atmosphere, always feeling like he needed to look over
2 his shoulder.

3 68. Plaintiff was still concerned about the fact the one of his coworkers has placed a
4 noose in the workplace and so on February 7, 2008, Plaintiff went back to HR to
5 ask why no one got back to him about the investigation. Plaintiff explained to
6 Susan Webb in human resources that people were not pleased with the way the
7 noose incident was handled and how no one from the company informed them
8 of the investigation. Considering the racial hostility in the workplace, and the
9 fact that the Jenna 6 incident had recently occurred, Plaintiff expressed how
10 upset and offended he was and how more immediate action should have
11 occurred. Webb said that the investigation was ongoing.

12 69. However, as no one ever got back to Plaintiff about the investigation and the
13 racial hostility continued, Plaintiff filed a complaint with the E.E.O.C.

14 70. On March 18, 2008, Plaintiff was called by Paige Fuller to go see Susan Webb in
15 HR regarding his E.E.O.C. complaint. Plaintiff explained to them each of the
16 issues he addressed to the E.E.O.C. Plaintiff explained that the "good old boys'
17 club" and the intimidating atmosphere needed to stop and that he wanted to see
18 appropriate training in the workplace that would directly address the issue of
19 the hangman's noose. Plaintiff explained that the noose is one of the single most
20 offensive symbol to African-Americans and that this needs to be reinforced.
21 However, no training has ever addressed the significance of hangman's nooses in
22 the workplace.

23 **Lawrence Grice**

24 71. Plaintiff Grice was hired on or about March 15, 2001 as a Assembler Technician at
25 the FMC site.

26 72. In July of 2006, Plaintiff applied for an Assembler II position, however the job
27 was given to a non-African-American temporary employee with far less
28

1 experience than Plaintiff.

2 73. In late 2006, Plaintiff was moved from the High Bay area to the Direct Vertical
3 Access (DVA) area. Plaintiff's manager, Dean Winkler, told Plaintiff that he was
4 never going to get a lead position in the High Bay and that he should get a fresh
5 start somewhere else.

6 74. In July 2007, Heith Huering told Plaintiff that because of his prior complaint,
7 Dean Winckler would never promote him and would considered him for a lead
8 man position. Plaintiff complained about this comment to Michelle Risinger in
9 human resources. Risinger said that she would talk to Dean but she never got
10 back to Plaintiff. Later, Huering repeated this comment in front of Wendell
11 Deborsky from human resources.

12 75. In October 2007, a hangman's noose was found in the workplace. Plaintiff was
13 told about it by Wendell Deborski from human resources. Plaintiff was
14 incredibly offended by this racist symbol being displayed in his workplace.

15 76. During this same time period, Plaintiff was in the process of being promoted to
16 an Assembler IV. However, even though Dean Winkler had signed off on the
17 promotion, Eric Huering refused to honor Dean's promotional decision when he
18 took over the department. Huering told Wendell Deborsky that he would not
19 promote Plaintiff unless he can pass a test, even though Plaintiff was already
20 approved for the job. Nonetheless, Plaintiff took and passed the test. However,
21 Huering still refused to promote Plaintiff to this position. None of the non-
22 African-American Assembler IV's had to take a test.

23 77. Earlier in 2007, Plaintiff's managers had given him an annual performance plan,
24 which stated that he would be promoted by December 2007 if he met certain
25 requirements. Even though Plaintiff met all of the requirements, he has still not
26 been promoted.

27 78. In November of 2007, Plaintiff was present when another Plaintiff, James Brown,
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1 was recalling a story from his childhood. At that time, an employee named
2 Stanley Norris commented that, "**you better be glad that you weren't in my**
3 **neck of the woods when you did that or we would have done you like they did**
4 **to James Byrd in Jasper,**" referring to the highly-publicized racial killing in
5 Jasper, Texas. Plaintiff reported this comment to his manager, Brian Sangster.
6 Sangster dismissed the comment, stating that, "that's just the way he is." Several
7 employees complained to human resources, however nothing was done to
8 discipline Norris.

9 79. Norris previously told Plaintiff about how his uncle was a sheriff, and that after a
10 black man raped a white girl, they dragged him out of his cell and was never
11 seen again.

12 80. In March 2008, during Plaintiff's performance development discussion ("PDD")
13 with Eric Trammel, Plaintiff complained about why he still had not been made a
14 lead man. Trammel told Plaintiff that the two non-African-American employees
15 who were currently acting as lead men had "SAP training," which Plaintiff did
16 not. However, Plaintiff had been consistently denied SAP training and had in
17 fact complained to Heath Herring, Dean Winkler and HR about being denied
18 access to SAP.

19 81. Further, during this discussion Plaintiff complained to Trammel about not being
20 promoted to Assembler IV, even though he was promised this title by Heath
21 Herring if he met certain criteria, which he did. Trammel said that this decision
22 was up to Eric Herring.

23 82. On or about April 3, 2008, Plaintiff met with Eric Herring, Eric Trammel and
24 Plaintiff Darren Mayo. At that meeting, Plaintiff Grice handed them a letter,
25 complaining about discrimination and harassment.

26 83. On April 14, 2008, Plaintiff met with Michelle Risinger from HR and explained to
27 her that Heath Herring had promised to make him and Assembler IV and the
28

1 fact that Heath Herring had confirmed his intention to Susan Webb from HR.
2 Risinger failed to respond to Plaintiff's complaints in any way.

3 84. The following day, Plaintiff asked Risinger for a copy of her notes of that
4 discussion, however, Risinger refused and Plaintiff has still not been made an
5 Assembler IV.

6 85. In May of 2008, another noose was found in the workplace. Plaintiff was
7 incredibly offended and upset that the company had not done anything to
8 change the hostile work environment after prior nooses were found. The
9 company held a meeting with human resources, who told employees that they
10 were investigating, however, Plaintiff has never heard the results of any
11 investigation and nothing has changed.

12 86. In June of 2008, Plaintiff complained to management about harassing comments
13 made by a FMC contractor. This contractor yelled at Plaintiff, "ya mule, yah, pull
14 mule pull." Plaintiff told him that he was a man, not a mule, and complained to
15 management. Despite his complaints, the contractor continued with his racially-
16 offensive comments, including telling Plaintiff and other employee, "fine work
17 boys, y'all were slave driving today."

18 87. On September 2, 2008, yet another hangman's noose was found in the workplace.
19 While several people saw the noose, management has claimed that the noose was
20 a "slipknot" and refused to take appropriate action against the individual who
21 committed this racist act.

22 88. During Plaintiffs' training, he was given a manual that includes an offensive
23 picture of a man in blackface. This picture is also found on FMC's intranet and
24 has been viewed by countless employees, including many of the Plaintiffs.

25 89. On December 12, 2008, Plaintiff's non-African-American coworker made several
26 90. racist remarks to Plaintiff, telling him, "I didn't think you wanted any coffee
27 anyway because you are already dark enough." He then put his arm next to
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1 Grices' and said, "see, you have been drinking too much coffee." This coworker
2 then asked Grice, "what was the name of the guy in the bible who God changed
3 the color of his skin because he sinned?"

4 91. Plaintiff complained to HR about these comments, however, Patsy Livingston
5 from HR tried to minimize this racist conduct, and tried to get Grice to say that it
6 was just a joke.

7 **Kevin McIntyre**

8 92. Plaintiff began working at the FMC site through Prostaff in October of 2005.

9 93. In August of 2006, Plaintiff heard Stanley Norris call another employee a "**creole**
10 **nigger**." Plaintiff knew of other employees who had complained to human
11 resources about racial comments but who received no response or action from
12 the company.

13 94. Later, Plaintiff heard Stanley Norris comment, "I'm glad that Mexican got fired,
14 he was hard-headed," in reference to a Latino employee who was terminated.

15 95. Throughout his time at the FMC facility, Plaintiff applied for full-time position
16 with FMC. However, non-African-Americans with less experience than Plaintiff
17 were hired, while Plaintiff was not. Plaintiff had to fill out applications multiple
18 times because his applications were allegedly "lost."

19 96. As a result of allegedly "losing" Plaintiff's applications, Plaintiff was passed over
20 for higher-paying promotional opportunities. Those jobs instead went to non-
21 African-American employees.

22 97. Plaintiff was finally hired as a full-time employee of FMC in March of 2007.

23 98. In October 2007, a hangman's noose was found in the workplace. Plaintiff
24 learned about it during his safety meeting. Plaintiff was shocked and incredibly
25 offended by this racist act.

26 99. FMC then held a sensitivity training session with all of the employees put on by
27 a team of lawyers. However, the video that was played contained offensive
28

1 language and racial slurs, including children using the word "**nigger**." Plaintiff
2 was incredibly offended by the racist video.

3 100. In November of 2007, Plaintiff learned that Stanley Norris said, "**who nigger-**
4 **rigged this sh. .?**" Stanley Norris constantly drove to work in a pickup truck
5 with a bumper sticker, stating "I'm a registered coonass." Norris' truck could be
6 seen by FMC management because it was parked in the company lot.

7 101. Plaintiff currently holds the title of Level I technician, and is only paid as a Level
8 I technician, however he does the work of a Level II technician. Other, non-
9 African-American employees with the same level of experience as Plaintiff are
10 paid as Level II technicians.

11 **Maurice Galimore**

12 102. Plaintiff Maurice Galimore was hired on or about December 21, 2006. At the
13 time, Plaintiff was hired as an assembly technician, working in Factory Accepted
14 Testing (F.A.T). Instead of teaching him the F.A.T. protocols, Plaintiff was
15 assigned to mopping, tool organization and other menial tasks. Non-African-
16 American employees with less seniority than Plaintiff were quickly trained in
17 F.A.T. and assigned more responsible duties, which allowed them to move up in
18 the company. Plaintiff complained to his supervisor, High Bay Team Lead James
19 Faucett, who told him, "you're lucky to have a job, get back to work!" Plaintiff
20 then complained to human resources on multiple occasions. However, Plaintiff
21 was told that he needed to wait it out. Plaintiff remained in that capacity for a
22 full year.

23 103. In May or June of 2007, Plaintiff received a negative performance evaluation
24 from High Bay Team Lead Roy Bolton. Bolton told him that the evaluation was
25 poor because he Plaintiff could not work independently in different areas.
26 However, unlike the non-African-American employees, Plaintiff had been
27 consistently denied the opportunity to train in those areas.

28

- 1 104. Plaintiff asked Bolton when he would be given a full-time job with FMC. Bolton
2 said, "what do you need a job for?" Bolton then told him that HR needed to
3 make a position available but that he could submit an application. Plaintiff
4 submitted an application, however he has been continually denied employment
5 by FMC.
- 6 105. On three separate occasions, human resources claimed that they "lost" Plaintiff's
7 job application, which is an experience shared by several African-Americans.
8 Plaintiff does not know of any non-minority individuals who have had their
9 application "lost" by human resources.
- 10 106. In June or July of 2007, Plaintiff and another African-American employee, Willy
11 Howard, were taking their 15 minute break in the break room. However, only
12 two minutes into their break, Lead Brett Mohn yelled at Plaintiff and Howard to
13 "get back to work!" Plaintiff and Howard immediately returned to their job in
14 the High Bay. When they arrived, four or five non-African-American employees
15 were watching pornography on Brett Mohn's computer and other employees
16 were literally lying down and relaxing. Mohn was present and witnessed this,
17 but did nothing.
- 18 107. Plaintiff Boris Bryant complained to Brett Mohn about harassing Galimore, as
19 well as to HR, however, nothing was done.
- 20 108. Later in July of 2007, Plaintiff again asked Brett Mohn for training in F.A.T. Mohn
21 told Plaintiff, "F.A.T. requires a mind-set that you don't have." Mohn told
22 Plaintiff, "you need a bra, you're a double-D." Plaintiff never heard Mohn makes
23 those degrading comments to non-African-American employees.
- 24 109. In August of 2007, Plaintiff Galimore saw Lead James Bryant viewing a racist
25 "White Aryan Resistance" website, as well as several other violent websites.
26 Plaintiff complained about this to his lead, Darren Mayo, as well as Wendell
27 Duborski in human resources. Plaintiff complained about the racist websites,
28

1 and also explained that the non-African-American employees were given
2 preferential treatment and that he was only assigned menial tasks, janitorial
3 work, and that he was harassed during his break times. Deborski told Plaintiff
4 that he should apply for job as an assembly tech position in the High Bay and an
5 apprenticeship position in the machine shop. Plaintiff applied for both positions
6 at the same time. Once again, Plaintiff was told by human resources that his
7 application for the High Bay position was "lost." Plaintiff was denied the
8 apprenticeship, allegedly because he was not a veteran employee.

9 110. Several non-African-American employees, with less experience on the job site
10 were hired by FMC, including Michael Woods, Steven Henderson, and Brian
11 Holden, however, Plaintiff has been continually denied employment because of
12 his race. Steven Henderson was given a full-time job even though he was caught
13 sleeping on the job.

14 111. In November of 2007, a noose was found in the High Bay, where Plaintiff works.
15 Plaintiff was incredibly upset and offended by this racist act. Plaintiff and several
16 other employees complained to management about this incident. Plaintiff was
17 required to attend a sensitivity training, where he was shown an incredibly
18 offensive video, which included children using the word "nigger."

19 112. In 2007, when FMC held a farewell party for Manager James Faucett, the
20 company prominently displayed on every table a picture of Faucett wearing a
21 confederate flag hat. This picture has also been displayed in the Prostaff office
22 and on the "Why I Work Safely" board in the Low Bay.

23 113. Later in January of 2008, during an all-hands meeting, Plaintiff complained to
24 managers Eric Huering and Brian Januk about discrimination and harassment.
25 Specifically, Plaintiff complained about an atmosphere of racism in the High Bay,
26 about the discriminatory hiring practices and how his applications were
27 allegedly lost, about the nooses that have been found in the workplace, about
28

1 being denied cross-training, about how African-Americans are assigned menial
2 tasks, and how non-African-American employees sit around while on the clock.
3 Huering and Januk said that they would look into it and make changes,
4 however, nothing was done.

5 114. In January of 2008, Plaintiff submitted a third application for employment with
6 FMC. Once again, Plaintiff was told that his application was "lost."

7 115. In February of 2008, Plaintiff heard Lead Brett Mohn talking about how he had
8 found a noose in Manager Roy Bolton's office two times in one day. Mohn said
9 that Manager Eric Huering had placed it there.

10 116. On or about March 25, 2008, Plaintiff had a meeting with Susan Webb, human
11 resources manager for FMC and Paige Fuller, human resources manager for
12 Prostaff. Plaintiff explained to them about everything he had complained to
13 Huering and Januk about, which is described above. Plaintiff also told Webb
14 about the noose in Roy Bolton's office and the racist websites.

15 117. Plaintiff met with human resources manager, Susan Webb again in May of 2008.
16 Webb stated that she could not substantiate the claims about the racist websites
17 and/or that managers had placed nooses on their desks. Webb did say that Roy
18 Bolton does have a rope on his desk and that sometimes people tie knots in it
19 while they are meeting with him.

20 118. In May of 2008, yet another noose was found in the workplace. Plaintiff saw the
21 noose hanging on one of the "trees," which is what the employees call the
22 underwater production units that they build. Plaintiff was incredibly offended
23 and upset that the company had not done anything to change the hostile work
24 environment after prior nooses were found. The company held a meeting with
25 human resources, who told employees that they were investigating, however,
26 Plaintiff has never heard the results of any investigation and nothing has
27 changed.
28

1 119. On or about June 6, 2008, Plaintiff was written up by John Troxell, allegedly for
2 "bringing negativity to the workplace," for allegedly making negative or
3 inappropriate comments during a meeting and for ignoring him. However,
4 Plaintiff never made negative or inappropriate comments during this meeting,
5 he have an honest answer to Troxell's questions. Other non-African-American
6 employees made similar comments during the meeting, but were not disciplined.
7 Further, Plaintiff never intentionally ignored Troxell. During the time in
8 question, Plaintiff was operating a crane, and company policy dictates that a
9 crane operator give their undivided attention to this task, which includes moving
10 thousands of pounds of expensive equipment and materials.

11 120. Plaintiff complained about his writeup to Patsy Livingston, human resources
12 representative, however, the writeup went into his personnel file anyway.

13 121. In December of 2008, while everyone in the Low Bay and High Bay was given an
14 FMC jacket, Maurice's supervisor, Eric Heuring did not get one for him. Plaintiff
15 was the only employee who did not get one.

16 122. Currently, one of Plaintiff's leads, Leon Acosta, displays a prominent "Aryan
17 Nation" spider web tattoo on his elbow that is visible to all of the employees.

18 **James Brown**

19 123. Plaintiff Brown was hired on or around March of 2006 as an Assembly
20 Technician.

21 124. In late 2006, Plaintiff attended his safety meeting. During that time, Plaintiff
22 brought up one of his experiences in his youth. Stanley Norris replied, "if you
23 **did that where I grew up, we would have drug you like they did to that guy in**
24 **Jasper,**" referring to the African-American hate-crime victim in Jasper, James
25 Byrd. Plaintiff Lawrence Grice and several other employees, including Plaintiff's
26 non-African-American Lead Man, Lewis Brown, were present when Norris made
27 this comment.
28

- 1 125. Approximately one month later, during a conversation among several employees
2 about different recipes, Plaintiff heard Stanley Norris call one recipe, a "nigger
3 recipe" in front of several other employees.
- 4 126. While working at the FMC site, Plaintiff applied for full-time employment with
5 FMC on multiple occasions. Several non-African-American employees with less
6 seniority than Plaintiff were hired on full-time. As with several other Plaintiffs,
7 human resources managers told Plaintiff that his applications were "lost."
- 8 127. Plaintiff was eventually hired full-time at the end of February, 2007. However,
9 Plaintiff Brown as well as Plaintiff Kevin McIntyre were falsely told that they
10 failed the urine test. It took several days for Plaintiffs Brown and McIntyre to be
11 cleared to work. As a result of this delay, Plaintiffs Brown and McIntyre were
12 given a lower seniority date than the new Non-African-American hires.
- 13 128. In November of 2007, a noose was found in the High Bay. Plaintiff was
14 incredibly upset and offended by this racist act. Several of Plaintiff's coworkers
15 complained to management about this incident and Plaintiff explained to his
16 superiors about how offended he was when he was questioned about the
17 incident.
- 18 129. In December of 2007, Plaintiff asked Stanley Norris for some pipe plugs. Norris
19 told Plaintiff, "**who has you nigger-rigging this?**" Plaintiff was shocked by this
20 racist comment and he complained to Lewis Brown, his Lead. Brown was
21 stunned and said, "I can't believe he would continue saying stupid things like
22 that." Brown told Plaintiff that he was going to tell Eric Trammel, the shop
23 coordinator (manager), who then held a conversation with Norris.
- 24 130. While Brown told Plaintiff that he spoke with Norris and told him that it was
25 wrong, no discipline was imposed and nothing changed.
- 26 131. On July of 2008, Plaintiff went to the restroom in the receiving area. In the last
27 stall, Plaintiff noticed numerous KKK signs and symbols all over the stall, the
28

1 paper dispenser and the walls. Plaintiff was shocked at this racist act and
2 immediately went to find Plaintiff Darren Mayo, lead in High Bay. When
3 Plaintiff and Mayo returned to the restroom, the door was locked and taped up.
4 132. Plaintiff wrote a complaint letter to human resources about this racist incident.
5 Plaintiff was summoned to a meeting with Patty Livingston, from human
6 resources, who told him that the company had known about the incident several
7 days before Plaintiff had seen it. Plaintiff asked Livingston why they didn't paint
8 over it immediately, instead of allowing Plaintiff and other employees to
9 continue to be confronted by the racial epithets. Livingston said, "why do y'all
10 assume that nothing is being done?" Plaintiff asked her who she meant by
11 "y'all?" Livingston did not provide Plaintiff with an explanation for who she was
12 referring to or why no one took care of the situation immediately. Livingston
13 told Plaintiff that she would get back to him when she found out any more. To
14 date, Livingston has not responded to Plaintiff.

15 Carlos Beatty

16 133. Plaintiff Beatty was hired in or around October of 2005 as an assembly
17 technician.

18 134. In the Spring of 2006, Plaintiff's Caucasian coworker, Stanley Norris, told
19 Plaintiff that an African-American employee was, "**not a nigger but a creole**
20 **nigger.**" Plaintiff was incredibly offended and complained to his lead, Lewis
21 Brown. Brown forwarded Plaintiff's complaint up to Manager Brian Sangster,
22 who told Plaintiff that he was going to speak with Norris about it. Plaintiff is not
23 aware of any disciplinary action being taken or any investigation into his
24 complaints.

25 135. Later in 2006, Plaintiff was present when Stanley Norris Stanley made
26 threatening and racist comments to Plaintiff James Brown. Norris replied to
27 Brown, "**if you did that where I grew up, we would have drug you like they**
28

1 **did to that guy in Jasper,”** referring to the African-American hate-crime victim
2 in Jasper, James Byrd. Plaintiff, who happened to know James Byrd, was
3 incredibly upset and offended. Plaintiff and several other employees, including
4 Lead Lewis Brown, were present when Norris made this comment.

5 136. Plaintiff applied for full-time employment at FMC starting in October of 2006. As
6 with other Plaintiffs, FMC told Plaintiff Beatty that his application was “lost.”
7 Plaintiff saw numerous non-African-American employees with less experience
8 get hired on full-time at FMC.

9 137. As with Plaintiff Brown, FMC was slow to process Plaintiff Beatty’s application.
10 Plaintiff was told that he lied about his previous employer. However, Plaintiff
11 proved to FMC that he had in fact worked for that employer for two and a half
12 years, as he stated on his application. Eventually, Plaintiff was hired full-time at
13 FMC in February of 2007.

14 138. In November of 2007, a noose was found in the High Bay. Plaintiff was
15 incredibly upset and offended by this racist act. Several of Plaintiff’s coworkers
16 complained to management about this incident and Plaintiff explained to his
17 superiors about how offended he was when he was questioned about the
18 incident.

19 139. In May of 2008, another noose was found in the workplace. The company held a
20 meeting with human resources, who told employees that they were
21 investigating, however, Plaintiff has never heard the results of any investigation
22 and nothing has changed.

23 140. On September 2, 2008, yet another hangman’s noose was found in the workplace.
24 While several people saw the noose, management has claimed that the noose was
25 a “slipknot.” Plaintiff is incredibly fearful working in an environment where hate
26 crimes continually occur and management has done nothing to stop these racist
27 acts.

1 141. Throughout his career, Plaintiff has seen numerous non-African-American
2 employees, including many with less seniority, receive promotions without the
3 jobs even being posted.

4 **Marcus Parejo**

5 142. Plaintiff Parejo, who is from Trinidad & Tobago, began working at the FMC
6 facility in July of 2006.

7 143. Plaintiff Parejo is of West Indian ancestry, born in Trinidad & Tobago.

8 144. Plaintiff first applied for a full-time welder position with FMC in April of 2007.
9 At the time, Plaintiff was told that he needed to be with the company for a year
10 before he could change departments.

11 145. However, several Caucasian employees with less seniority were given full-time
12 positions with FMC.

13 146. Because Plaintiff wanted welding experience, he asked to practice in the weld
14 shop. For a short time, Plaintiff was allowed to practice welding, however, his
15 superior, Heath Heuring would not allow it. Heuring said that Plaintiff needed
16 the proper paperwork in order to be in the welding area. Despite Plaintiff's
17 expressed interest in working in the weld shop, and the fact that Plaintiff was
18 already doing some welding work on the job, Plaintiff was not given the
19 opportunity to join the welding apprenticeship.

20 147. Plaintiff is currently attending Lone Star College, majoring in welding. However,
21 Plaintiff's repeated requests for welding training were denied, even though
22 Caucasian employees are allowed to practice welding.

23 148. In October of 2007, Plaintiff noticed a KKK symbol drawn on a piece of
24 machinery. Plaintiff complained to his lead, John Troxell, however it was never
25 removed.

26 149. In November of 2007, Plaintiff saw employee James Bryan looking at racist
27 website on the company computers, including websites for the "White Aryan
28

- 1 Resistance." Plaintiff had previously seen Bryan viewing violent websites.
- 2 150. In February of 2008, Plaintiff complained to Manager Roy Bolton about being
- 3 denied welding opportunities. Bolton never responded to Plaintiff's complaints.
- 4 151. Shortly after making his complaints, Plaintiff was denied overtime opportunities.
- 5 152. In March of 2008, Plaintiff's locker was vandalized. Some one took Plaintiff's flag
- 6 of Trinidad & Tobago and turned it upside down and wrote, "Cuba is #1."
- 7 Plaintiff complained to human resources, however, nothing was done.
- 8 153. Plaintiff complained to human resources about being continually denied the
- 9 welding opportunities that are given to Caucasian employees. Human Resources
- 10 dismissed Plaintiff's complaints and directed him to speak with Welding
- 11 Supervisor, Steward Stout. Stout told Plaintiff that he needed to go to school for
- 12 welding, even though he allowed Caucasians to train.
- 13 154. In July, 2008, a position became available in the weld shop. However, even
- 14 though Plaintiff had expressed interest in the job, the position was given to a
- 15 Caucasian employee with else seniority than Plaintiff. Plaintiff complained to
- 16 human resources about being denied this position. However, even though
- 17 Plaintiff was initially scheduled for an interview, his interview was cancelled and
- 18 Plaintiff was told that he was not qualified. Plaintiff has been consistently denied
- 19 welder positions and assistant welder positions, even though he has been asking
- 20 for them for several years.
- 21 155. Throughout his employment, Plaintiff was denied a login for the company
- 22 computers. However, while Plaintiff needs login this in order to do his job,
- 23 Plaintiff was denied even though Caucasian employees with the same jobs as
- 24 Plaintiff were given logins.
- 25 156. In November of 2007, a noose was found in the High Bay. Plaintiff was
- 26 incredibly upset and offended by this racist act. Several of Plaintiff's coworkers
- 27 complained to management about this incident and Plaintiff explained to human
- 28

resources and Defendant's alleged investigator about how offended he was when he was questioned about the incident.

157. Plaintiff's supervisor, Tony Leal, constantly scrutinizes Plaintiff's work and questions him whenever he takes a break. Leal never does this for Caucasian or Latino employees. Plaintiff and Leal were hired at the same time, however, Leal was promoted over Plaintiff.

158. Plaintiff complained to Roy Bolton, Patsy Livingston in HR, as well as John Troxell about Leal. Plaintiff told Bolton and Livingston was like a "slave driver," and that he could not work with him. However, while other Caucasian employees were allowed to transfer, Plaintiff's requests were denied.

Lamar Newton

159. Plaintiff newton was hired as an Assembly Technician in May of 2007.

160. Plaintiff noticed that several non-African-American employees, with similar experience, were given full-time positions with FMC, while Plaintiff was passed up.

161. In August/ September of 2007, Plaintiff asked Recruiter/ Coordinator, Daniel Castillo, about the Field Service Technician Apprenticeship Program. Plaintiff was told that he needed to have a least a year working in the shop before he could get the job. However, a non-African-American employee was given the job even though he did not have a year's worth of experience in the shop.

162. In late October of 2007, Plaintiff saw a hangman's noose hanging in the High Bay. Plaintiff was shocked and offended at this racist act and immediately informed Supervisor Joe McHenry, who brought it to the attention of management and human resources. Susan Webb from human resources later took a statement from Plaintiff and he expressed concern about how the company would handle the situation. Webb assured plaintiff that she would keep him informed about the process. However, Webb never followed up with

1 Plaintiff about the investigation.

2 163. FMC then held a sensitivity training session with all of the employees put on by
3 a team of lawyers. However, the video that was played contained offensive
4 language and racial slurs, including children using the word "nigger."

5 164. Brian Holden, a non-African-American employee who was given a full-time job
6 over Plaintiff, called Plaintiff and another African-American employee, "Boy."

7 165. Eventually, Plaintiff was accepted into the apprenticeship program, however he
8 was required to wait until March to begin.

9 166. In February of 2008, Chris Aaron would continually take Plaintiff off of his
10 projects and assign him menial tasks, such as sweeping and other maintenance
11 tasks. Aaron would scrutinize Plaintiff's breaks, while non-African-American
12 employees were allowed to slack off and take lengthy smoke breaks.

13 167. Later in February of 2008, Plaintiff saw racist graffiti in the bathroom. There was
14 a graphic drawing of one of the African-American female employees engaging in
15 sex acts. After one of Plaintiff's coworkers reported the incident, Manager John
16 Troxell told employees that this is unacceptable, however no discipline was
17 imposed and racist graffiti continued to appear.

18 168. On September 2, 2008, yet another hangman's noose was found in the workplace.
19 While several people saw the noose, management has claimed that the noose was
20 a "slipknot." Plaintiff, a former Navy signalman, knew that this type of knot was
21 no accident, as management had suggested.

22 169. In December, 2008, Plaintiff Lamar Newton was denied the opportunity to
23 transfer into the international division of the service department, where he
24 would earn more money. While he was told that he needed more experience, a
25 non-African-American with less experience was given this opportunity instead
26 of Newton.

27 **John Lucas**

28

1 170. Plaintiff initially began working at the FMC plant in June of 2005.

2 171. Plaintiff was finally hired by FMC on or about January 23, 2006 as an Assembler
3 I.

4 172. Throughout his career, employee James Bryant made racial comments and jokes
5 to Plaintiff. In early 2006, Plaintiff heard James Bryant joking about African-
6 Americans eating "chicken and watermelons." Plaintiff was offended by this
7 racist remark and reported the incident to his Lead, Joe Aerola. However, instead
8 of investing this racist comment, Aerola told Plaintiff, "if you come to me about
9 any other teammate, you'll be fired." When Joe Aerola failed to take any action,
10 Plaintiff complained to Lead James Faucett. Instead of taking appropriate
11 action, Faucett threatened Plaintiff, telling him, "this couldn't happen because I
12 hand-pick my guys," and "if you're going to be a problem, you'll be walked out
13 the door."

14 173. Later in 2006, Plaintiff and several other employees complained to James Faucett
15 about the fact that one of his coworkers, Chris Aaron, had a confederate flag on
16 his dashboard. It took FMC two months before they took any action.

17 174. Later, Plaintiff complained to his Lead, James Faucett, about a contractor
18 showing people racial jokes on the computer. The contractor was showing
19 people a cartoon of Colin Powell, Jesse Jackson and Bill Clinton, where Clinton
20 was hanging Colin Powell. Plaintiff had heard several racial comments from this
21 contractor in the past. Faucett told Plaintiff that he would look into his
22 complaints. However, even though this contractor had two previous harassment
23 complaints against him, Faucett did nothing to stop it.

24 175. In the Summer of 2006, a lead position became available. Plaintiff expressed
25 interested in the promotion to his Team Leader, James Faucett. However, Faucett
26 told Plaintiff, "because of who you associate with, you need not apply." Plaintiff
27 knew that Faucett was referring to some of the African-American employees he
28

1 was friendly with at the facility.

2 176. The promotion went to Chris Aaron, a non-African-American employee with less
3 seniority than Plaintiff.

4 177. Throughout his employment with FMC, Plaintiff was consistently disciplined
5 and criticized by his managers for the misconduct of his non-African-American
6 coworkers and leads. When a new employee who was being directed by Chris
7 Aaron nearly hit someone with a forklift, Supervisor James Faucett yelled at
8 Plaintiff, even though it was Aaron's fault.

9 178. Throughout his employment with FMC, Plaintiff was denied training
10 opportunities that were given to non-African-American employees. This led to
11 Plaintiff receiving lower performance appraisals than he deserved.

12 179. In late 2006, FMC restructured the work week so that many employees lost
13 hours. However, while the non-African-American employees were allowed to
14 come in and work extra hours, Plaintiff and the other African-American
15 employees were not.

16 180. In October of 2007, another hangman's noose was found in the "High Bay,"
17 where Plaintiff worked. Plaintiff learned about the noose from coworkers and he
18 was incredibly upset that a noose would be in his workplace.

19 181. In November of 2007, yet another noose was found in the workplace. In
20 response, FMC then held a sensitivity training session with all of the employees.
21 However, the video that was played contained offensive language and racial
22 slurs, including children using the word "nigger." Plaintiff, as well as other
23 employees, walked out of the video in protest of such a demeaning and
24 inappropriate video. Plaintiff complained to HR about the incredible
25 insensitivity of this video.

26 182. Later, Plaintiff had a meeting with Steve Barrett, head of the Western Region.
27 Plaintiff complained to Barrett about the insensitivity of the film, who told
28

1 Plaintiff that he couldn't believe that it was shown. However, even after this
2 meeting, employees were still shown this film.

3 183. Two weeks after this meeting, Plaintiff heard Manager Jim Hanus make a racial
4 joke to Lead Chris Ferguson about African-Americans. Hanus also asked
5 Plaintiff, "why are you guys over here playing with footballs like the monkeys
6 do?" Plaintiff asked Hanus what he meant. Hanus stammered and blurted out,
7 "there's too many of you guys working there," and ran away. Plaintiff then
8 asked Ferguson about it. Ferguson said that it was an old racist joke. Plaintiff
9 heard that Hanus had previously used the word "nigger."

10 184. In late March of 2008, Plaintiff met with an investigator from Pope and
11 Associates. Plaintiff complained extensively about how segregated FMC was,
12 about the threats, retaliation and harassment, and about how the atmosphere
13 was gotten much worse since the nooses were found. The investigator told
14 Plaintiff that she was going to forward these complaints to management for
15 resolution. However, nothing has changed.

16 185. On September 2, 2008, yet another hangman's noose was found in the workplace.
17 While several people saw the noose, management has claimed that the noose was
18 a "slipknot" and refused to take appropriate action against the individual who
19 committed this racist act.

20 **Carlton Sykes**

21 186. Plaintiff Sykes began working at the FMC facility in April of 2006 as an assembly
22 technician.

23 187. Plaintiff was injured on the job in September of 2006 in what the company
24 deemed an "equipment failure." However, even though he was not at fault,
25 Plaintiff Boris Bryant was denied a raise and was given a negative evaluation
26 because of the incident, even though he had nothing to do with Plaintiff Sykes
27 getting injured.

1 188. Plaintiff was consistently denied training and assistance by non-African-
2 American leads and coworkers. Many refused to even answer Plaintiff's
3 questions. This greatly impacted Plaintiff's job performance and his ability to
4 move up within the company. Additionally, the fact that non-African-Americans
5 were given assistance while the African-Americans were not led to segregation
6 within the workplace.

7 189. Throughout his employment, Plaintiff saw that non-African-American
8 employees were offered full-time employment, even though they had less
9 seniority than Plaintiff. In fact, Plaintiff had trained some of the non-African-
10 Americans who were hired over him.

11 190. Plaintiff was eventually offered full-time employment with FMC in March of
12 2007.

13 191. In mid-2007, Plaintiff applied for a "Planner I" position. However, even though
14 he was more qualified, the job went to a non-African-American employee.
15 Plaintiff was told by management that he did not get the job because he was not
16 in his position for over a year, however, non-African-American employees were
17 routinely promoted or granted lateral transfers even though they had not been in
18 their positions for over a year.

19 192. In November of 2007, a noose was found in the High Bay, where Plaintiff works.
20 Plaintiff Pierre and Newton showed the noose to Plaintiff Sykes, who was
21 incredibly offended and upset by this racist act. Eventually, Wendell Beberski,
22 and manager Roy Bolton arrived. Bolton attempted to minimize the incident, but
23 Plaintiff complained to Bolton that this was a noose, not a "tag line."

24 193. Plaintiff learned that there had been a noose incident prior to this one but that
25 management did nothing about it.

26 194. Even though Plaintiff Sykes was one of the employees who witnessed the noose
27 hanging in the High Bay, he was never interviewed by anyone from the
28

company about it.

195. FMC then held a sensitivity training session with all of the employees put on by a team of lawyers. However, the video that was played contained offensive language and racial slurs, including children using the word "nigger." The video singled out African-Americans as opposed to any other minority group. Plaintiff was very offended by management's response to this incident and their failure to take it seriously.

FIRST CLAIM FOR RELIEF
Race Discrimination (Title VII)
(All Plaintiffs as to Defendant FMC)

196. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.

197. This is an action for damages arising out of racial discrimination in employment. At all times relevant herein, Plaintiffs' job performance was always satisfactory or better.

198. Defendants, as alleged herein, discriminated against Plaintiffs as follows: refusal to hire, denial of promotions and pay, denial of raises, unwarranted disciplinary action, unwarranted negative performance appraisals, denial of training and assistance, denial of work hours, threats and intimidation, assignment of menial tasks, and harassment.

199. As a result of the racial discrimination as described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to disparate treatment on account of race. Plaintiffs are informed and believe that Defendants discriminated against them knowing that such discrimination would cause severe emotional distress. Plaintiffs therefore seek damages for such emotional distress in an amount to be

1 proved at the time of trial.

2 200. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
3 and will be required to employ physicians to examine, treat and care for them
4 and will incur additional medical and economic damages in an amount to be
5 proven at the time of trial.

6 201. As a result of the wrongful conduct as described herein, Plaintiffs have been
7 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
8 seek an award of back pay, front pay, and injunctive relief, according to proof at
9 the time of trial.

10 202. In doing the acts set forth above, Defendants acted intentionally, and with a
11 conscious disregard of Plaintiffs' rights to equal employment opportunities
12 regardless of race. Defendants have acted, and continue to act, with a reckless
13 disregard of their obligations under the law. The Defendants' conduct, as alleged
14 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
15 therefore entitled to an award of punitive damages in an amount to be proven at
16 the time of trial.

17 **SECOND CLAIM FOR RELIEF**

Race Discrimination (Title VII)

18 (Plaintiffs Parejo, Pierre and Galimore as to Defendant Prostaff)

19 203. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
20 through 195 as if fully pleaded at length herein.

21 204. This is an action for damages arising out of racial discrimination in employment.
22 At all times relevant herein, Plaintiffs' job performance was always satisfactory
23 or better.

24 205. Defendants, as alleged herein, discriminated against Plaintiffs as follows: refusal
25 to hire, denial of promotions and pay, denial of raises, unwarranted disciplinary
26 action, unwarranted negative performance appraisals, denial of training and
27 assistance, denial of work hours, threats and intimidation, assignment of menial
28

1 tasks, and harassment.

2 206. As a result of the racial discrimination as described herein, Plaintiffs have been
 3 held up to great derision and embarrassment by their fellow coworkers, friends,
 4 and members of the community. Plaintiffs have suffered emotional distress
 5 because Defendants have subjected them to disparate treatment on account of
 6 race. Plaintiffs are informed and believe that Defendants discriminated against
 7 them knowing that such discrimination would cause severe emotional distress.
 8 Plaintiffs therefore seek damages for such emotional distress in an amount to be
 9 proved at the time of trial.

10 207. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
 11 and will be required to employ physicians to examine, treat and care for them
 12 and will incur additional medical and economic damages in an amount to be
 13 proven at the time of trial.

14 208. As a result of the wrongful conduct as described herein, Plaintiffs have been
 15 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
 16 seek an award of back pay, front pay, and injunctive relief, according to proof at
 17 the time of trial.

18 209. In doing the acts set forth above, Defendants acted intentionally, and with a
 19 conscious disregard of Plaintiffs' rights to equal employment opportunities
 20 regardless of race. Defendants have acted, and continue to act, with a reckless
 21 disregard of their obligations under the law. The Defendants' conduct, as alleged
 22 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
 23 therefore entitled to an award of punitive damages in an amount to be proven at
 24 the time of trial.

25 **THIRD CLAIM FOR RELIEF**

26 Retaliation (Title VII)
 (All Plaintiffs as to Defendant FMC)

27 210. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
 28

1 through 195 as if fully pleaded at length herein.

2 211. This is an action for damages arising out of retaliation in employment. At all
3 times relevant herein, Plaintiffs' job performance was always satisfactory or
4 better.

5 212. Defendants, as alleged herein, retaliated against Plaintiffs for making complaints
6 of discrimination and harassment as follows: refusal to hire, denial of promotions
7 and pay, denial of raises, unwarranted disciplinary action, unwarranted negative
8 performance appraisals, denial of training and assistance, denial of work hours,
9 threats and intimidation, assignment of menial tasks, and harassment.

10 213. As a result of the retaliation as described herein, Plaintiffs have been held up to
11 great derision and embarrassment by their fellow coworkers, friends, and
12 members of the community. Plaintiffs have suffered emotional distress because
13 Defendants have subjected them to retaliation because of their complaints of
14 discrimination and harassment. Plaintiffs are informed and believe that
15 Defendants retaliated against them knowing that such retaliation would cause
16 severe emotional distress. Plaintiffs therefore seek damages for such emotional
17 distress in an amount to be proved at the time of trial.

18 214. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
19 and will be required to employ physicians to examine, treat and care for them
20 and will incur additional medical and economic damages in an amount to be
21 proven at the time of trial.

22 215. As a result of the wrongful conduct as described herein, Plaintiffs have been
23 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
24 seek an award of back pay, front pay, and injunctive relief, according to proof at
25 the time of trial.

26 216. In doing the acts set forth above, Defendants acted intentionally, and with a
27 conscious disregard of Plaintiffs' rights to equal employment opportunities
28

1 regardless of their complaints. Defendants have acted, and continue to act, with a
 2 reckless disregard of their obligations under the law. The Defendants' conduct,
 3 as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs
 4 are therefore entitled to an award of punitive damages in an amount to be proven
 5 at the time of trial.

6 **FOURTH CLAIM FOR RELIEF**

7 Retaliation (Title VII)

8 (Plaintiffs Parejo, Pierre and Galimore as to Defendant Prostaff)

9 217. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
 10 through 195 as if fully pleaded at length herein.

11 218. This is an action for damages arising out of retaliation in employment. At all
 12 times relevant herein, Plaintiffs' job performance was always satisfactory or
 13 better.

14 219. Defendants, as alleged herein, retaliated against Plaintiffs for making complaints
 15 of discrimination and harassment as follows: refusal to hire, denial of promotions
 16 and pay, denial of raises, unwarranted disciplinary action, unwarranted negative
 17 performance appraisals, denial of training and assistance, denial of work hours,
 18 threats and intimidation, assignment of menial tasks, and harassment.

19 220. As a result of the retaliation as described herein, Plaintiffs have been held up to
 20 great derision and embarrassment by their fellow coworkers, friends, and
 21 members of the community. Plaintiffs have suffered emotional distress because
 22 Defendants have subjected them to retaliation because of their complaints of
 23 discrimination and harassment. Plaintiffs are informed and believe that
 24 Defendants retaliated against them knowing that such retaliation would cause
 25 severe emotional distress. Plaintiffs therefore seek damages for such emotional
 26 distress in an amount to be proved at the time of trial.

27 221. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
 28 and will be required to employ physicians to examine, treat and care for them

1 and will incur additional medical and economic damages in an amount to be
2 proven at the time of trial.

3 222. As a result of the wrongful conduct as described herein, Plaintiffs have been
4 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
5 seek an award of back pay, front pay, and injunctive relief, according to proof at
6 the time of trial.

7 223. In doing the acts set forth above, Defendants acted intentionally, and with a
8 conscious disregard of Plaintiffs' rights to equal employment opportunities
9 regardless of their complaints. Defendants have acted, and continue to act, with a
10 reckless disregard of their obligations under the law. The Defendants' conduct,
11 as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs
12 are therefore entitled to an award of punitive damages in an amount to be proven
13 at the time of trial.

14 **FIFTH CLAIM FOR RELIEF**

15 Race Discrimination In Violation of Public Policy (Common Law)
16 (All Plaintiffs as to Defendant FMC)

17 224. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
18 through 195 as if fully pleaded at length herein.

19 225. There is a fundamental and well-established public policy against discrimination
20 in employment on the basis of race, age, gender, disability and national origin.

21 226. Defendant, as alleged herein, has a long standing policy and practice of making
22 personnel decisions on the basis of factors prohibited by public policies, as well
23 as creating and maintaining a hostile work environment based on race.

24 227. As a result of the racial discrimination as described herein, Plaintiffs have been
25 held up to great derision and embarrassment by their fellow coworkers, friends,
26 and members of the community. Plaintiffs have suffered emotional distress
27 because Defendants have subjected them to disparate treatment on account of
28 race. Plaintiffs are informed and believe that Defendants discriminated against

1 them knowing that such discrimination would cause severe emotional distress.
2 Plaintiffs therefore seek damages for such emotional distress in an amount to be
3 proved at the time of trial.

4 228. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
5 and will be required to employ physicians to examine, treat and care for them
6 and will incur additional medical and economic damages in an amount to be
7 proven at the time of trial.

8 229. As a result of the wrongful conduct as described herein, Plaintiffs have been
9 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
10 seek an award of back pay, front pay, and injunctive relief, according to proof at
11 the time of trial.

12 230. In doing the acts set forth above, Defendants acted intentionally, and with a
13 conscious disregard of Plaintiffs' rights to equal employment opportunities
14 regardless of race. Defendants have acted, and continue to act, with a reckless
15 disregard of their obligations under the law. The Defendants' conduct, as alleged
16 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
17 therefore entitled to an award of punitive damages in an amount to be proven at
18 the time of trial.

19 **SIXTH CLAIM FOR RELIEF**

20 Race Discrimination In Violation of Public Policy (Common Law)
 (Plaintiffs Parejo, McIntyre, Brown, Beatty, Pierre, Galimore, Sykes and Lucas as to
 Defendant Prostaff)

21 231. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
22 through 195 as if fully pleaded at length herein.

23 232. There is a fundamental and well-established public policy against discrimination
24 in employment on the basis of race, age, gender, disability and national origin.

25 233. Defendant, as alleged herein, has a long standing policy and practice of making
26 personnel decisions on the basis of factors prohibited by public policies, as well
27 as creating and maintaining a hostile work environment based on race.
28

1 234. As a result of the racial discrimination as described herein, Plaintiffs have been
2 held up to great derision and embarrassment by their fellow coworkers, friends,
3 and members of the community. Plaintiffs have suffered emotional distress
4 because Defendants have subjected them to disparate treatment on account of
5 race. Plaintiffs are informed and believe that Defendants discriminated against
6 them knowing that such discrimination would cause severe emotional distress.
7 Plaintiffs therefore seek damages for such emotional distress in an amount to be
8 proved at the time of trial.

9 235. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
10 and will be required to employ physicians to examine, treat and care for them
11 and will incur additional medical and economic damages in an amount to be
12 proven at the time of trial.

13 236. As a result of the wrongful conduct as described herein, Plaintiffs have been
14 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
15 seek an award of back pay, front pay, and injunctive relief, according to proof at
16 the time of trial.

17 237. In doing the acts set forth above, Defendants acted intentionally, and with a
18 conscious disregard of Plaintiffs' rights to equal employment opportunities
19 regardless of race. Defendants have acted, and continue to act, with a reckless
20 disregard of their obligations under the law. The Defendants' conduct, as alleged
21 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
22 therefore entitled to an award of punitive damages in an amount to be proven at
23 the time of trial.

24 **SEVENTH CLAIM FOR RELIEF**

25 Retaliation In Violation of Public Policy (Common Law)
26 (All Plaintiffs as to Defendant FMC)

26 238. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
27 through 195 as if fully pleaded at length herein.
28

1 239. There is a fundamental and well-established public policy against retaliating
2 against employees who raise complaints of discrimination and harassment.

3 240. Defendant, as alleged herein, has a long standing policy and practice of
4 retaliating against employees who raise complaints of discrimination and
5 harassment.

6 241. As a result of the retaliation as described herein, Plaintiffs have been held up to
7 great derision and embarrassment by their fellow coworkers, friends, and
8 members of the community. Plaintiffs have suffered emotional distress because
9 Defendants have subjected them to retaliation. Plaintiffs are informed and
10 believe that Defendants retaliated against them knowing that such retaliation
11 would cause severe emotional distress. Plaintiffs therefore seek damages for
12 such emotional distress at the time of trial.

13 242. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
14 and will be required to employ physicians to examine, treat and care for them
15 and will incur additional medical and economic damages in an amount to be
16 proven at the time of trial.

17 243. As a result of the wrongful conduct as described herein, Plaintiffs have been
18 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
19 seek an award of back pay, front pay, and injunctive relief, according to proof at
20 the time of trial.

21 244. In doing the acts set forth above, Defendants acted intentionally, and with a
22 conscious disregard of Plaintiffs' rights to equal employment opportunities.
23 Defendants have acted, and continue to act, with a reckless disregard of their
24 obligations under the law. The Defendants' conduct, as alleged herein, was and
25 is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an
26 award of punitive damages in an amount to be proven at the time of trial.

EIGHTH CLAIM FOR RELIEF

Retaliation In Violation of Public Policy (Common Law)
(Plaintiffs Parejo, McIntyre, Brown, Beatty, Pierre, Galimore, Sykes and Lucas as to
Defendant Prostaff)

245. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.
246. There is a fundamental and well-established public policy against retaliating against employees who raise complaints of discrimination and harassment.
247. Defendant, as alleged herein, has a long standing policy and practice of retaliating against employees who raise complaints of discrimination and harassment.
248. As a result of the retaliation as described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to retaliation. Plaintiffs are informed and believe that Defendants retaliated against them knowing that such retaliation would cause severe emotional distress. Plaintiffs therefore seek damages for such emotional distress at the time of trial.
249. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been and will be required to employ physicians to examine, treat and care for them and will incur additional medical and economic damages in an amount to be proven at the time of trial.
250. As a result of the wrongful conduct as described herein, Plaintiffs have been denied employment, denied promotions, and denied raises. As a result, Plaintiffs seek an award of back pay, front pay, and injunctive relief, according to proof at the time of trial.
251. In doing the acts set forth above, Defendants acted intentionally, and with a conscious disregard of Plaintiffs' rights to equal employment opportunities. Defendants have acted, and continue to act, with a reckless disregard of their

obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an award of punitive damages in an amount to be proven at the time of trial.

NINTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress (Common Law)
(All Plaintiffs as to Defendant FMC)

252. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.

253. Defendant, as alleged herein, acted with the intent to cause, and/or acted with reckless disregard for the possibility of Plaintiffs suffering severe emotional distress. The acts described herein are separately, as well as in their totality, so extreme and outrageous that they cannot be tolerated by a civilized society. As a result of such conduct, Plaintiffs suffered severe emotional distress.

254. As a result of the extreme and outrageous conduct described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to intentional misconduct.

255. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been and will be required to employ physicians to examine, treat and care for them and will incur additional medical and economic damages in an amount to be proven at the time of trial.

256. In doing the acts set forth above, Defendants acted intentionally, and with a conscious disregard of Plaintiffs' rights to equal employment opportunities. Defendants have acted, and continue to act, with a reckless disregard of their obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an

award of punitive damages in an amount to be proven at the time of trial.

TENTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress (Common Law)
(Plaintiffs Parejo, McIntyre, Brown, Beatty, Pierre, Galimore, Sykes and Lucas as to
Defendant Prostaff Defendant Prostaff)

257. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.

258. Defendant, as alleged herein, acted with the intent to cause, and/or acted with reckless disregard for the possibility of Plaintiffs suffering severe emotional distress. The acts described herein are separately, as well as in their totality, so extreme and outrageous that they cannot be tolerated by a civilized society. As a result of such conduct, Plaintiffs suffered severe emotional distress.

259. As a result of the extreme and outrageous conduct described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to intentional misconduct.

260. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been and will be required to employ physicians to examine, treat and care for them and will incur additional medical and economic damages in an amount to be proven at the time of trial.

261. In doing the acts set forth above, Defendants acted intentionally, and with a conscious disregard of Plaintiffs' rights to equal employment opportunities. Defendants have acted, and continue to act, with a reckless disregard of their obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an award of punitive damages in an amount to be proven at the time of trial.

ELEVENTH CLAIM FOR RELIEF
National Origin Discrimination (Title VII)
(Plaintiff Parejo as to Defendants FMC and Prostaff)

262. Plaintiff incorporates by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.
263. This is an action for damages arising out of national origin discrimination in employment. At all times relevant herein, Plaintiff Marcus Parejo's job performance was always satisfactory or better.
264. Defendants, as alleged herein, discriminated against Plaintiff as follows: refusal to hire, denial of promotions, threats and intimidation, assignment of menial tasks, and harassment.
265. As a result of the national origin discrimination as described herein, Plaintiff has been held up to great derision and embarrassment by their his coworkers, friends, and members of the community. Plaintiff has suffered emotional distress because Defendants have subjected him to disparate treatment on account of national origin. Plaintiff is informed and believes that Defendants discriminated against him, knowing that such discrimination would cause severe emotional distress. Plaintiff therefore seeks damages for such emotional distress in an amount to be proved at the time of trial.
266. Because of the wrongful acts of Defendants as alleged herein, Plaintiff has been and will be required to employ physicians to examine, treat and care for him and will incur additional medical and economic damages in an amount to be proven at the time of trial.
267. As a result of the wrongful conduct as described herein, Plaintiff has been denied employment, denied promotions, and denied raises. As a result, Plaintiff seeks an award of back pay, front pay, and injunctive relief, according to proof at the time of trial.
268. In doing the acts set forth above, Defendants acted intentionally, and with a

conscious disregard of Plaintiff's rights to equal employment opportunities regardless of national origin. Defendants have acted, and continue to act, with a reckless disregard of their obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiff is therefore entitled to an award of punitive damages in an amount to be proven at the time of trial.

TWELFTH CLAIM FOR RELIEF

Discrimination – Hostile Work Environment (Title VII)
(All Plaintiffs as to Defendant FMC)

269. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.
270. This is an action for damages arising out of racial harassment in employment.
271. Defendants have an obligation under the law to assure an environment free from harassment on the basis of race.
272. Defendants, as alleged herein, knowingly created and/or maintained a hostile work environment on the basis of race. Defendants, by and through their and their managers, directors and managing agents, either knew about the hostile work environment and failed to take remedial action, or themselves created a hostile work environment based on race.
273. As a result of the hostile work environment as described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to a racially hostile work environment. Plaintiffs are informed and believe that Defendants maintained such a racially hostile work environment, knowing that it would cause severe emotional distress. Plaintiffs therefore seek damages for such emotional distress in an amount to be proved at the time of trial.

274. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been and will be required to employ physicians to examine, treat and care for them and will incur additional medical and economic damages in an amount to be proven at the time of trial.

275. In doing the acts set forth above, Defendants acted intentionally, and with a conscious disregard of Plaintiffs' rights to work in an environment free from racial hostility. Defendants have acted, and continue to act, with a reckless disregard of their obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an award of punitive damages in an amount to be proven at the time of trial.

THIRTEENTH CLAIM FOR RELIEF

Discrimination - Hostile Work Environment (Title VII)
(Plaintiffs Parejo, Pierre and Galimore as to Defendant Prostaff)

276. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1 through 195 as if fully pleaded at length herein.

277. This is an action for damages arising out of racial harassment in employment.

278. Defendants have an obligation under the law to assure an environment free from harassment on the basis of race.

279. Defendants, as alleged herein, knowingly created and/or maintained a hostile work environment on the basis of race. Defendants, by and through their and their managers, directors and managing agents, either knew about the hostile work environment and failed to take remedial action, or themselves created a hostile work environment based on race.

280. As a result of the hostile work environment as described herein, Plaintiffs have been held up to great derision and embarrassment by their fellow coworkers, friends, and members of the community. Plaintiffs have suffered emotional distress because Defendants have subjected them to a racially hostile work

1 environment. Plaintiffs are informed and believe that Defendants maintained
2 such a racially hostile work environment, knowing that it would cause severe
3 emotional distress. Plaintiffs therefore seek damages for such emotional distress
4 in an amount to be proved at the time of trial.

5 281. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
6 and will be required to employ physicians to examine, treat and care for them
7 and will incur additional medical and economic damages in an amount to be
8 proven at the time of trial.

9 282. In doing the acts set forth above, Defendants acted intentionally, and with a
10 conscious disregard of Plaintiffs' rights to work in an environment free from
11 racial hostility. Defendants have acted, and continue to act, with a reckless
12 disregard of their obligations under the law. The Defendants' conduct, as alleged
13 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
14 therefore entitled to an award of punitive damages in an amount to be proven at
15 the time of trial.

16
17 **FOURTEENTH CLAIM FOR RELIEF**
18 Race Discrimination (Texas Labor Code Section 21.051)
(All Plaintiffs as to Defendant FMC)

19 283. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
20 through 195 as if fully pleaded at length herein.

21 284. This is an action for damages arising out of racial discrimination in employment.
22 At all times relevant herein, Plaintiffs' job performance was always satisfactory
23 or better.

24 285. Defendants, as alleged herein, discriminated against Plaintiffs as follows: refusal
25 to hire, denial of promotions and pay, denial of raises, unwarranted disciplinary
26 action, unwarranted negative performance appraisals, denial of training and
27 assistance, denial of work hours, threats and intimidation, assignment of menial
28

1 tasks, and creating and maintaining a harassment.

2 286. As a result of the racial discrimination as described herein, Plaintiffs have been
3 held up to great derision and embarrassment by their fellow coworkers, friends,
4 and members of the community. Plaintiffs have suffered emotional distress
5 because Defendants have subjected them to disparate treatment on account of
6 race. Plaintiffs are informed and believe that Defendants discriminated against
7 them knowing that such discrimination would cause severe emotional distress.
8 Plaintiffs therefore seek damages for such emotional distress in an amount to be
9 proved at the time of trial.

10 287. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
11 and will be required to employ physicians to examine, treat and care for them
12 and will incur additional medical and economic damages in an amount to be
13 proven at the time of trial.

14 288. As a result of the wrongful conduct as described herein, Plaintiffs have been
15 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
16 seek an award of back pay, front pay, and injunctive relief, according to proof at
17 the time of trial.

18 289. In doing the acts set forth above, Defendants acted intentionally, and with a
19 conscious disregard of Plaintiffs' rights to equal employment opportunities
20 regardless of race. Defendants have acted, and continue to act, with a reckless
21 disregard of their obligations under the law. The Defendants' conduct, as alleged
22 herein, was and is despicable, malicious and oppressive. The Plaintiffs are
23 therefore entitled to an award of punitive damages in an amount to be proven at
24 the time of trial.

25
26 **FIFTEENTH CLAIM FOR RELIEF**

27 Race Discrimination (Texas Labor Code Section 21.052)
28 (Plaintiffs Parejo, Pierre and Galimore as to Defendant Prostaff)

1 290. Plaintiffs incorporate by reference each of the facts alleged in paragraphs 1
2 through 195 as if fully pleaded at length herein.

3 291. This is an action for damages arising out of racial discrimination in employment.
4 At all times relevant herein, Plaintiffs' job performance was always satisfactory
5 or better.

6 292. Defendants, as alleged herein, discriminated against Plaintiffs as follows: refusal
7 to hire, denial of promotions and pay, denial of raises, unwarranted disciplinary
8 action, unwarranted negative performance appraisals, denial of training and
9 assistance, denial of work hours, threats and intimidation, assignment of menial
10 tasks, and creating and maintaining a harassment.

11 293. As a result of the racial discrimination as described herein, Plaintiffs have been
12 held up to great derision and embarrassment by their fellow coworkers, friends,
13 and members of the community. Plaintiffs have suffered emotional distress
14 because Defendants have subjected them to disparate treatment on account of
15 race. Plaintiffs are informed and believe that Defendants discriminated against
16 them knowing that such discrimination would cause severe emotional distress.
17 Plaintiffs therefore seek damages for such emotional distress in an amount to be
18 proved at the time of trial.

19 294. As a result of the wrongful conduct as described herein, Plaintiffs have been
20 denied employment, denied promotions, and denied raises. As a result, Plaintiffs
21 seek an award of back pay, front pay, and injunctive relief, according to proof at
22 the time of trial.

23 295. Because of the wrongful acts of Defendants as alleged herein, Plaintiffs have been
24 and will be required to employ physicians to examine, treat and care for them
25 and will incur additional medical and economic damages in an amount to be
26 proven at the time of trial.

27 296. In doing the acts set forth above, Defendants acted intentionally, and with a
28

conscious disregard of Plaintiffs' rights to equal employment opportunities regardless of race. Defendants have acted, and continue to act, with a reckless disregard of their obligations under the law. The Defendants' conduct, as alleged herein, was and is despicable, malicious and oppressive. The Plaintiffs are therefore entitled to an award of punitive damages in an amount to be proven at the time of trial.

DEMAND FOR JURY TRIAL

297. Plaintiffs hereby request a jury trial for all claims.

PRAYER FOR RELIEF

298. Wherefore, Plaintiffs pray that the Court grant them the following relief:

- A. Compensatory damages;
- B. Back pay;
- C. Front pay;
- D. Damages for mental pain and suffering;
- E. Reasonable attorneys' fees;
- F. Costs of suit;
- G. Punitive damages;
- H. Injunctive relief;
- I. Such other relief as the Court deems just and reasonable.

Plaintiffs seek damages in an amount not less than \$120,000,000.

Dated: December 23, 2008

LAW OFFICES OF MAYOR JOSEPH L. ALIOTO
& ANGELA ALIOTO


JOSHUA D. BOXER